

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

In re Sharon Sue Leach)
) Case No. 17-51723
) Chapter 13
) Judge John E. Hoffman, Jr.

Debtor/s

MOTION TO AVOID JUDICIAL LIEN ON REAL PROPERTY
PURSUANT TO 11 U.S.C. § 522(f)(1)(A)

Sharon Sue Leach (the "Debtor," whether individually or collectively)
moves the court pursuant to 11 U.S.C. § 522(f)(1)(A) and Federal Rules of Bankruptcy Procedure 4003(d) and
9014 for an order granting this motion to avoid the judicial lien of
State of Ohio Department of Taxation (the "Creditor").

Memorandum in Support

(1) The Debtor filed a voluntary petition under chapter 13 of the Bankruptcy Code on
March 23, 2017 (the "Petition Date").

(2) As of the Petition Date, the Debtor was the owner of the following real property located at
1296 Kariba Drive, Groveport, OH 43125 (50 percent interest) (the "Property").
The Debtor owns the Property
in fee simple

☒ A legal description of the property is attached as Exhibit A.

(3) The value of the Property as of the Petition Date, as set forth in the
appraisal filed at Doc. 26
was \$ 145,000.00.

(4) The Debtor's interest in the Property as of the Petition Date was \$ 72,500.00.

(5) As of the Petition Date, the Property was subject to certain mortgages/liens in the amounts
specified and in the relative priority set forth below:

First mortgage/lien:

Wells Fargo Bank, NA
in the amount of \$ 77,486.35 recorded on March 3, 2008.

(6) The Creditor obtained a judgment in the amount of \$ 507.46 against the Debtor on December 20, 2014 in the Franklin County Common Pleas Court, Columbus, OH.
 The Certificate of Judgment was filed on March 4, 2015 with the Franklin County Common Pleas Court at Columbus, OH.

(7) The Debtor has claimed or is entitled to claim an exemption in the Property in the amount of \$ 1,250.00 pursuant to ORC § 2329.66(A)(18).

(8) 11 U.S.C. § 522(f)(2)(A) provides that "a lien shall be considered to impair an exemption to the extent that the sum of: (i) the lien; (ii) all other liens on the property; and (iii) the amount of the exemption that the debtor could claim if there were no liens on the property; exceeds the value that the debtor's interest in the property would have in the absence of any lien." 11 U.S.C. § 522(f)(2)(A).

(9) Using the formula set forth above, the judicial lien of the Creditor impairs the Debtor's exemption, wherefore the judicial lien of the Creditor is avoidable pursuant to 11 U.S.C. § 522(f)(2)(A). In this case we have the following values:

a. Amount of judicial lien	\$	<u>507.46</u>
b. Amount of all other liens	\$	<u>77,486.35</u>
c. Value of exemptions	\$	<u>1,250.00</u>
<hr/>		
d. Total: lines a + b + c = line d	\$	<u>79,243.81</u>
e. Value of the Debtor's interest in the Property	\$	<u>72,500.00</u>
<hr/>		
f. Subtract line e from line d	\$	<u>6,743.81</u>

Extent of exemption impairment: \$ 507.46

If line f is equal to or greater than line a, the entire judicial lien is avoided

If line f is less than line a, a portion of the judicial lien may be avoided

(10) Upon Discharge,
 the judicial lien of the Creditor on the Property will be avoided. If the Creditor fails to timely release the judicial lien, the Debtor may submit an order granting this motion to the applicable court or recorder's office as evidence of the release of the judicial lien.

WHEREFORE, the Debtor requests that the court grant the Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A).

Respectfully submitted,

/s/ David A. Bhaerman

David A. Bhaerman (0077686)

Law Office of David A. Bhaerman, LLC
10400 Blacklick Eastern Road Suite 110
Pickerington, OH 43147

Ph: (614) 834-7110

Fx: (614) 864-9209

dablaw@bhaerman.com

Notice of Motion

Debtor has filed a Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A).

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the relief sought in the motion, then on or before **twenty-one (21) days from the date set forth in the certificate of service for the motion**, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to

United States Bankruptcy Court, 170 North High Street, Columbus, Ohio 43215

OR your attorney must file a response using the court's ECF System.

The court must **receive** your response on or before the above date.

You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

David A Bhaerman, 10400 Blacklick Eastern Road Suite 110, Pickerington, OH 43147

Faye D. English, One Columbus Center, 10 West Broad Street, Suite 900, Columbus, OH 43215

Office of the US Trustee, 170 N. High Street, Suite 200, Columbus, OH 43215-2403

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting the relief without further hearing or notice.

Certificate of Service

I hereby certify that true and accurate copies of the foregoing Motion to Avoid Judicial Lien on Real Property pursuant to 11 U.S.C. § 522(f)(1)(A) and Notice of Motion were served on July 31, 2017

On the following parties by regular U.S. Mail:

Motion 522(f)(1)(A) (11/16)

State of Ohio Department of Taxation, PO Box 530, Columbus, OH 43215
Ohio Attorney General Collections Enforcement, 150 East Gay Street, 21st Floor, Columbus, OH 43215
Sharon Sue Leach, 4483 Landmark Drive, Groveport, OH 43125

And on the following parties by certified mail, return receipt requested:

And on all ECF participants registered in this case at the email address registered with the Court on the date of filing.

/s/ David A. Bhaerman

David A. Bhaerman (0077686)

Law Office of David A. Bhaerman, LLC
10400 Blacklick Eastern Road Suite 110
Pickerington, OH 43147

Ph: (614) 834-7110

Fx: (614) 864-9209

dablau@bhaerman.com